

BANDER LAW FIRM LLP  
Joel R. Bander (SBN 119460)  
1055 W. 7th Street, Suite 1950  
Los Angeles, California 90017  
Telephone: (213) 873-4333  
Facsimile: (213) 873-4334  
[info@banderlaw.com](mailto:info@banderlaw.com)

Attorney(s) for Plaintiff, DANIEL USON



4/29/2009

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DANIEL USON, an individual ) Case No.: C09-01312 JW (PVT)

Plaintiff,

V.

LITTON LOAN SERVICING, LP., a limited partnership; QUALITY LOAN SERVICE, a corporation; LIME FINANCIAL SERVICES, LTD., a corporation; and DOES 1 through 100 inclusive.

## Defendants.

Case No.: C09-01312 JW (PVT)

NOTICE OF DISMISSAL OF ENTIRE  
ACTION WITHOUT PREJUDICE  
PURSUANT TO RULE 41(a) or (c) F.R.Civ.P.

PLEASE TAKE NOTICE THAT this action is dismissed by Plaintiff DANIEL USON in its entirety without prejudice.

This dismissal is made pursuant to Rule 41(a) or (c) of the Federal Rules of Civil Procedure.

Plaintiff has the absolute right to dismiss the action by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Fed. Rules Civ. Pro. § 41(a)(1)(A)(i); *see, Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 Fed. 3d. 1074, 1077 (9<sup>th</sup> Cir. 1999) (“A court has no discretion to exercise once a Rule 41(a)(1) dismissal is filed.”).

1 Voluntary dismissal presumed "without" prejudice unless plaintiff's notice of dismissal  
2 states otherwise. Fed. Rules Civ. Pro. § 41(a)(1)(A), *see Pedrina v. Chun*, 987 Fed. 2d 608, 610,  
3 fn. 3 (9<sup>th</sup> Cir. 1993).

4 Plaintiff's absolute right to dismiss before an answer or a summary judgment motion is not  
5 affected by the amount of effort expended by defendant or how far the lawsuit has advanced. *See*  
6 American Soccer Co., Inc. v. Score First Enterprise, 187 Fed. 3d 1108, 1110-1112 (9<sup>th</sup> Cir. 1999).

7 DATED: April 27, 2009

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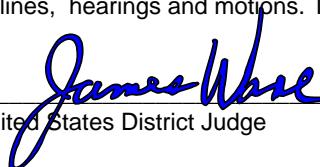
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10 JOEL R. BANDER  
11 Attorneys for Plaintiff  
12 DANIEL USON

13 **IT IS SO ORDERED:**

14 The Court terminates any remaining deadlines, hearings and motions. The Clerk shall close this file.

15 Dated: April 29, 2009

16 United States District Judge

  
James W. H. Whare

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BANDER LAW FIRM LLP  
1055 West 7<sup>th</sup> Street, Suite 1950  
LOS ANGELES, CALIFORNIA 90017  
TELEPHONE (213) 873-4333